

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

8:17-CR-29

vs.

LEONARD E. MEGEE,

Defendant.

ORDER

This matter is before the Court on the defendant's Motion for Return or Duplication of Personal Property ([filing 52](#)). The defendant seeks the return of personal property pursuant to [Fed. R. Crim. P. 41\(g\)](#). The parties appear to be in substantial agreement about the property at issue and, therefore, the Court will grant the defendant's motion subject to the conditions set forth in the government's response ([filing 56](#)).

Under Rule 41, the defendant must first establish lawful entitlement to the property at issue. *Jackson v. United States*, 526 F.3d 394, 396 (8th Cir. 2008). This burden is often satisfied where the property is seized from the movant's possession, as a person from whom property is seized is presumed to have a right to its return. *Id.* If the defendant can establish that he is legally entitled to all or some of the seized evidence, then the burden shifts to the government to articulate a "legitimate reason to retain the property." *Id.* at [397](#). The Rule 41(g) motion "is properly denied if the defendant is not entitled to lawful possession of the seized property, property is contraband or subject to forfeiture or the government's need for the property as evidence continues." *Id.*

Here, the property was seized from the defendant's home, and thus the presumption of lawful entitlement applies. Although the case obviously involves contraband, the Court does not understand the defendant to be asking for any contraband to be returned. *See filing 52; filing 54.* And the government has expressed its willingness to cooperate with the defendant's spouse in providing her with copies of the information sought by the defendant's motion. *See filing 56.*

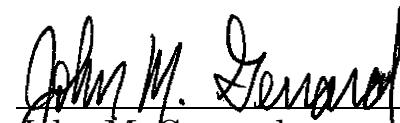
With that understanding, the Court will grant the defendant's motion subject to the conditions set forth in the government's response. Should the parties be unable to amicably resolve any ongoing disagreements, they can be presented to the Court in a subsequent motion.

IT IS ORDERED:

1. The defendant's Motion for Return or Duplication of Personal Property ([filing 52](#)) is granted.
2. The government shall, subject to the conditions set forth in its response ([filing 56](#)) to the defendant's motion, make its best efforts to provide the defendant's spouse with the professional publications and family photographs sought by the defendant's motion ([filing 52](#)).
3. Counsel shall confer and arrange a meeting to facilitate the duplication or return of that property.
4. Any remaining disagreements may be presented to the Court through a subsequent motion.

Dated this 21st day of February, 2018.

BY THE COURT:



John M. Gerrard

United States District Judge